



**We are the LEADERS  
in disability-related solutions.**

# **PURPOSE**

---

*Division of Vocational Rehabilitation assists individuals with disabilities to improve their employment opportunities*

*and*

*Assists businesses in solving disability related issues*

# DISCLAIMER

---

- ✘ Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.
- ✘ Division of Vocational Rehabilitation is authorized to provide information, materials, and technical assistance, at no charge, to individuals and entities that are covered by the ADA.

# WHY THE ADA IS IMPORTANT

---

- ✗ Non-exclusive – people with disabilities largest “minority” group.
- ✗ Aging population
- ✗ New source of employees and customers
- ✗ Compliance is often cheap and easy
- ✗ It's the law

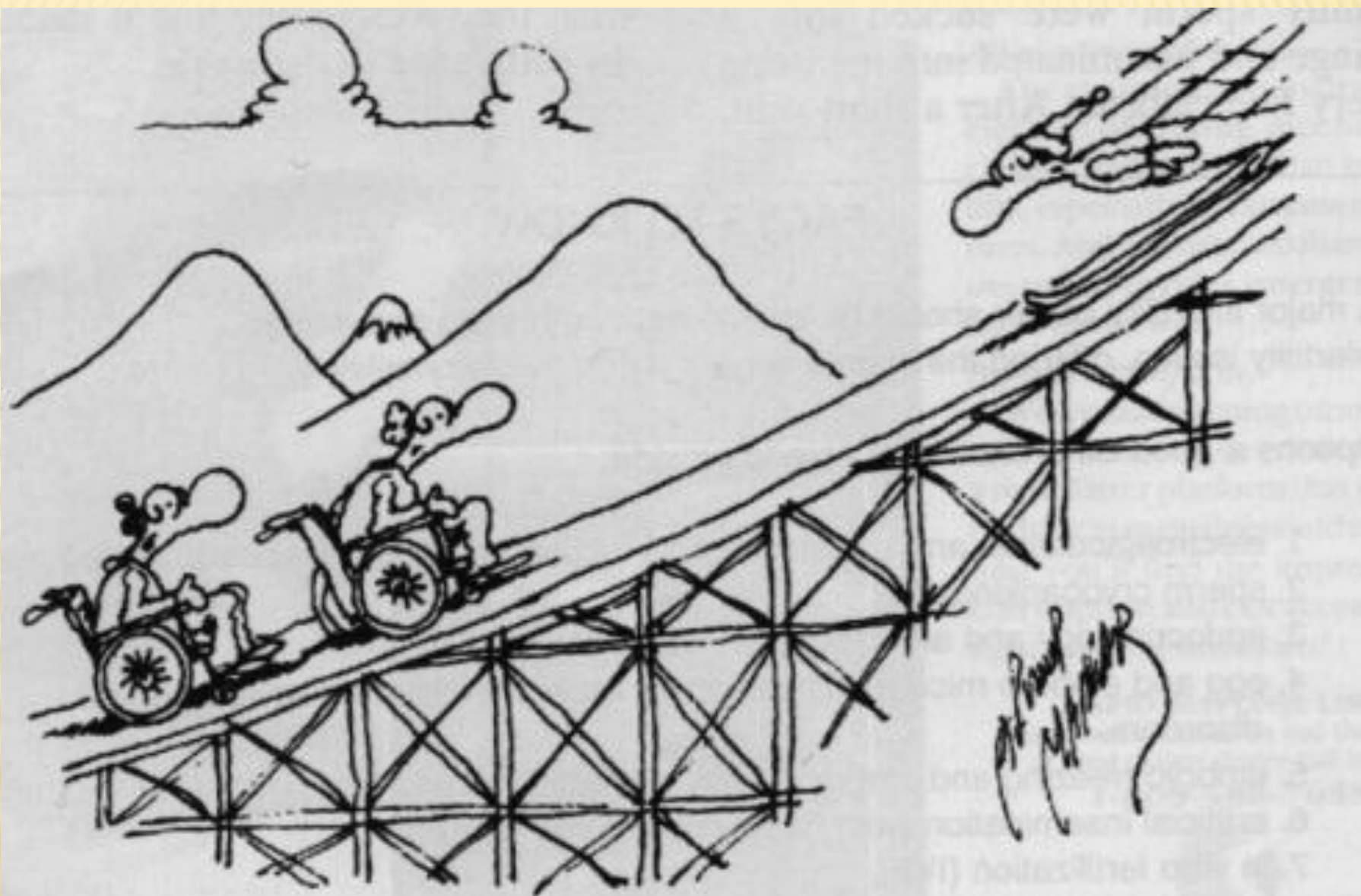


# **FIVE WORDS TO REMEMBER**

---

Common Sense

Good Faith Effort



"I told you it wasn't a wheelchair ramp!"

THERE ARE APPROXIMATELY \_\_\_\_\_  
MILLION PEOPLE IN THE U.S. WITH A  
DISABILITY

- A. 10
- B. 100
- C. 54
- D. 1

# WHICH OF THE FOLLOWING ARE ENFORCEMENT AGENCIES FOR THE ADA?

- A. Equal Employment Opportunity Commission
- B. Dept. Of Justice
- C. Dept. Of Transportation
- D. All of the above



# HOW MANY TITLES ARE THERE IN THE ADA?

---

- A. Ten
- B. Five
- C. One
- D. Fifteen

# THE ADA ADDRESSES DISABILITY ISSUES AS THEY RELATE TO:

---

- A. State and Local Government programs
- B. Employment
- C. Telecommunications
- D. All of the above

# TITLE II ADDRESSES ISSUES RELATED TO:

- A. Public programs and services of public entities
- B. Telecommunications
- C. Private Entities
- D. Religious Organization

# RELAY SERVICES MAY BE ACCESSED BY DIALING WHAT NUMBER?

- A. 9-1-1
- B. 7-1-1
- C. 800-949-4232
- D. 0



# TITLE III ADDRESSES ISSUES RELATED TO:

---

- A. Employment
- B. Telecommunications
- C. Misc. Provisions
- D. Private Entities operating public accommodations

# TITLE I ADDRESSES ISSUES RELATED TO:

- A. Employment
- B. Telecommunications
- C. State and local governments
- D. Misc. provisions



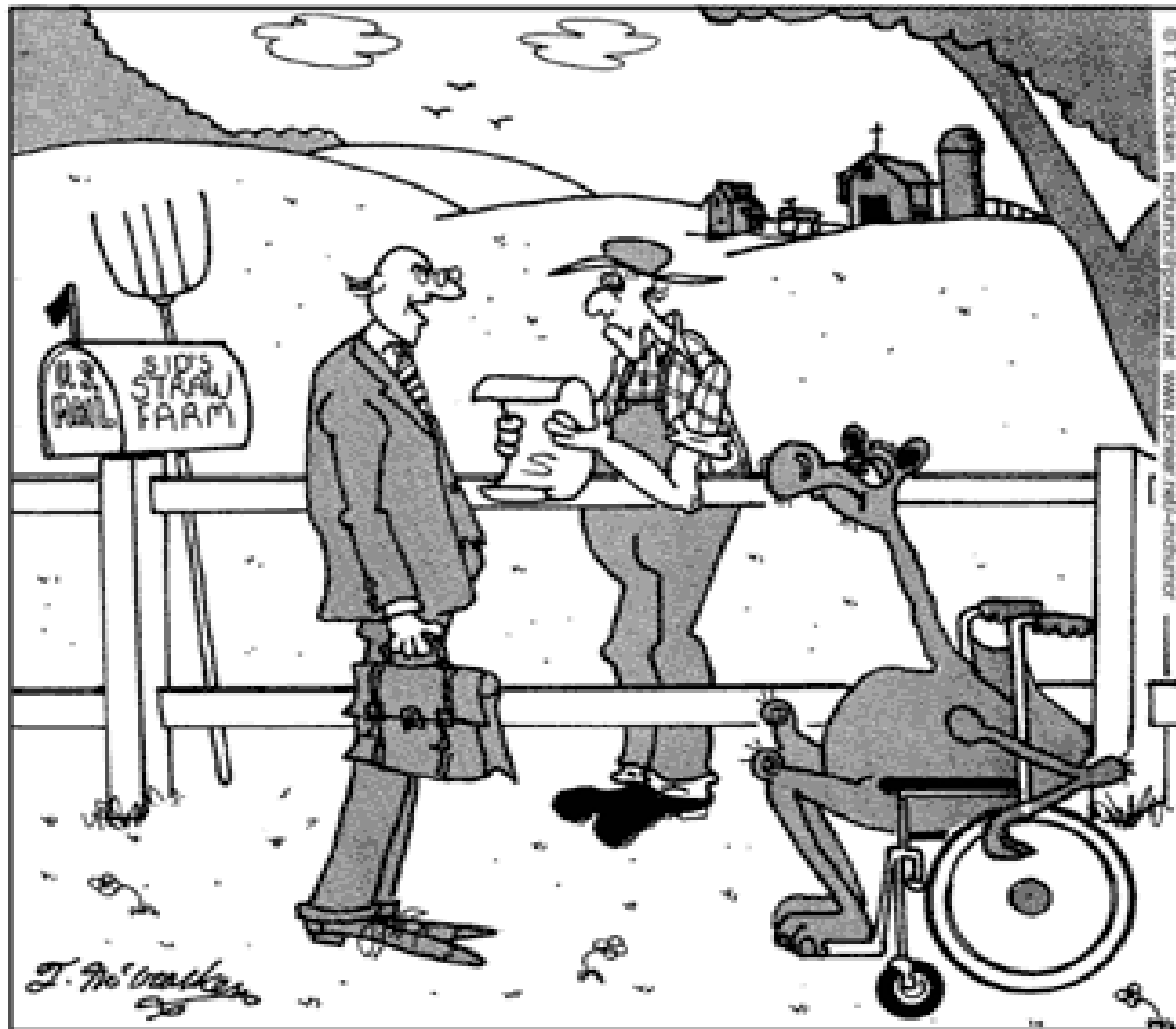
# CHICKEN • 2 • GO

Today's  
Special:  
Fried  
Chicken  
Legs



# MCHUMOR

by T. McCracken



"My client is suing you for growing the straw that broke her back."



# Does the ADA cover everyone?

- Federal Government
- Religious Organizations
- Residential Complexes
- Private Clubs
- Indian Tribes

# OVERVIEW OF THE ADA

---

- ✗ Title I: Employers
- ✗ Title II: State & Local Governments
- ✗ Title III: Privately Owned Entities
- ✗ Title IV: Telecommunications
- ✗ Title V: Miscellaneous Provisions

# SPECIFIC EXCLUSIONS

---

- ✗ Current Illegal drug use
- ✗ Certain sexual disorders and sexual preferences
- ✗ Compulsive Gambling, Kleptomania, and Pyromania

# Topics

- The Americans With Disabilities Act
- Disability Etiquette



# The Americans With Disabilities Act

## Brief Overview

Passed in 1990, the ADA is a federal civil rights law that protects 54 million Americans with disability.

# Disability

The term "disability" means,

- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such impairment.

# Are You Protected by The *ADA*?

If you have a disability and are qualified to do a job, the *ADA* protects you from job discrimination on the basis of your disability.

You must have a record of, or be regarded as having a substantial, as opposed to a minor, impairment.

You must also be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation.



# TITLE I: EMPLOYERS

Title I requires private employers with 15 or more employees or any state or local government entity without regard to the number of employees to provide equal employment opportunities for individuals with disabilities. Employers may hire, fire, and promote the most qualified individual, regardless of his/her disability. Title I covers all aspect of the hiring process, including posting of available positions, interviewing, job offers, and hiring. It requires all employers to make necessary reasonable accommodations for known disabilities of a qualified applicant or employee, unless the accommodation would impose an undue hardship on the employer.



# TITLE I CON'T

---

Title I prohibits employers from giving pre-employment medical exams or inquiries to determine if an individual is disabled. It also prohibits the use of employment tests and other selection criteria that screen out or tend to screen out individuals with disabilities unless the tests are shown to be job-related and consistent with business necessity.

Title I complaints may be filed with the EEOC which is the enforcement agency.

# Reasonable Accommodation

An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can show that the accommodation would be an undue hardship

# Types of Reasonable Accommodation



- Modifications or adjustments to:
  - Job application process
  - Enable a person to perform the essential functions
  - Enable a person to enjoy equal benefits and privileges
- Examples:
  - Making facilities accessible
  - Job restructuring
  - Modified work schedules
  - Modifying test, materials, policies
  - Providing readers or interpreters
  - Modifying or getting new equipment (A.T.)
  - Reassignment





# UNDUE HARDSHIP

---

An employer does not have to provide a reasonable accommodation that would cause an “undue hardship”. Instead, undue hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty. Only under Title I, enforcement agency is the EEOC.





## **City of Fargo ADA Coordinators:**

- Nate Bailly, Planning
- Bob Getz, Fargo Civic Center

All requests for accommodation or complaints from the public relating to ADA should be directed first to an immediate supervisor. The supervisor will then work with Nate Bailly or Bob Getz to respond to the request for accommodation or complaint.

# TITLE II: STATE AND LOCAL GOVERNMENTS

---

Title II regulations prohibit state and local government agencies, departments, special purpose districts, and other instrumentalities from discriminating against people with disabilities in their programs, services, and activities. Public entities must make reasonable modifications to their policies, practices, and procedures to allow equal opportunity for individuals with disabilities to participate, unless to do so would fundamentally alter the nature of the service, program, or activity.

# TITLE II CON'T

---

They must also provide auxiliary aids and services, integrated program access through nonstructural and architectural modifications, and meet Title I employment provisions with all employees and contractors. Public entities do not need to remove all physical barriers in existing buildings as long as programs provided in those buildings are readily accessible to users with disabilities in another facility.



# TITLE II CON'T

Title II also seeks to ensure that individuals with disabilities have equal access to existing public transportation services. All newly purchased busses and other vehicles must be accessible. In cases of inaccessible fixed route systems, public entities must provide paratransit services comparable to the level of service provided by the fixed route system.

Enforcing Agencies: Dept. of justice, Dept. of Agriculture, Dept of Education, Dept. of HHS, Dept. of Housing & UD, Dept. Of Interior, Dept. of labor.



# EFFECTIVE DATE FOR THE REVISED TITLE II RULES

---

- ✕ The Rules take effect on **March 15, 2011.**  
(six months from publication)

# NEW AND REVISED TITLE II DEFINITIONS

---

## ✕ New

- + Service animal

## ✕ Revised

- + Auxiliary aids and services

- + Qualified interpreter

# SERVICE ANIMALS

---

The rule defines “service animal” as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. The rule states that other animals, whether wild or domestic, do not qualify as service animals. Dogs that are not trained to perform tasks that mitigate the effects of a disability, including dogs that are used purely for emotional support, are not service animals.

# COMPLIANCE DATE FOR 2010 STANDARDS

- ✕ On or after March 15, 2012,
- ✕ 2010 standards **must be** followed for new construction, alterations, barrier removal, and program access

Immediate use permitted

+ § 35.151(c)(3) and § 36.406(a)(3)



# TITLE II ENTITIES—APPLICABLE STANDARDS UNTIL COMPLIANCE DATE

- ✗ Until March 15, 2012, entities can choose to use one of the following:
- ✗ 1991 Standards\*
- ✗ 2010 Standards
- ✗ UFAS

\*Elevator exemption does not apply.

- ✗ Must follow choice consistently in a facility

# WHAT STANDARDS APPLY TO EXISTING FACILITIES?

---

- ✕ Title II — Program accessibility

# SAFE HARBOR – EXISTING FACILITIES – TITLES II

---

- ✘ Elements that comply with the corresponding requirements for those elements in the 1991 Standards **do not need to be modified** to meet the 2010 Standards **unless they are altered** on or after March 15, 2012.
- ✘ 35.150(b)(2)(i); 36.304.(d)(2)(i)



# SAFE HARBOR– EXISTING FACILITIES

- ✘ Safe Harbor does not apply to elements in existing facilities that **were not** subject to specific requirements in the 1991 Standards.





# MAINTENANCE OF ACCESSIBLE FEATURES (NEW PROVISION)

---

- ✖ If the 2010 Standards reduce the technical requirements or the number of required accessible elements below the number required by the 1991 Standards, the covered entity may reduce the level of accessibility in accordance with the 2010 Standards.
- ✖ § 35.133(c) and § 36.211 (c)

# TITLE II – PATH OF TRAVEL

---

- ✘ Title II Rule adds regulatory text mirroring path of travel requirements in Title III.

# CITY OF FARGO EMPLOYMENT POLICY NO. 200-017

---

## Americans with Disabilities Act (ADA)

- ✖ Date Approved: 7/10
- ✖ Date Issued: 7/10
- ✖ Date Revised:



## **City of Fargo Employment**

- Jill Minette, Human Resources

All COF employees who are qualified individuals with a disability must communicate their need for an accommodation to their immediate supervisor. The supervisor will then report the request to Human Resources as soon as possible. HR will work with the employee, the employee's physician, and the supervisor throughout the reasonable accommodation process.



# TITLE III: PRIVATELY OWNED ENTITIES

---

All places of public accommodation, including both for-profit and nonprofit establishments, that affect commerce must follow Title III guidelines. These businesses include, but are not limited to, sales and service establishments, restaurants, theaters, hotels, libraries, and doctors' offices. Title III also applies to all commercial facilities including office buildings, factories, and warehouses. Public accommodations must provide goods and services to individuals with disabilities in the most integrated setting possible. The law also requires businesses to eliminate eligibility requirements that exclude or segregate individuals with disabilities unless the requirements are necessary for the operation of the accommodation.

# TITLE III CON'T

---

These entities must make reasonable modifications to their policies, practices, and procedures that deny access unless the modification would fundamentally alter the nature of the goods or services provided. When necessary, public accommodations are required to provide auxiliary aids, such as Braille material, to ensure effective communication unless it would cause an undue burden for the public accommodations. Public accommodations must also remove all architectural and structural communications barriers in existing facilities where readily achievable. Transportation provided by private entities must also be accessible.

Enforcing agencies: Dep. Of Justice, Dept. of Transportation

# TITLE IV: TELECOMMUNICATIONS

Title IV requires that telephone companies provide telecommunications relay services that allow individuals with hearing or speech impairments to communicate using a TTY or other non-voice device. Relay services may be accessed by dialing 7-1-1. Title IV also requires that all television public service announcements produced or funded in whole or in part by the Federal government include closed captioning.

Enforcing agency: Federal Communications Commission (FCC)



# TITLE V: MISCELLANEOUS PROVISIONS

Title V includes information regarding the ADA's relationship with other federal and state laws, including the Rehabilitation Act of 1973, requirements relating to the provision of insurance, construction and design regulations by the U.S. Access Board, prohibition of alternative means of dispute resolution, and establishment of technical assistance.



# Who do I contact?

If you think you have been discriminated against in employment on the basis of disability you should contact the U.S. Equal Employment Opportunity Commission. 1-800-669-4000

[www.eeoc.gov](http://www.eeoc.gov)

Other Titles contact DOJ 800-514-0301

[www.ada.gov](http://www.ada.gov)

# Useful Site

<http://www.adainformation.org>

# Disability Etiquette

# How do you treat a person with a disability?

Just like anyone else!

- Ask to assist
- Be yourself
- Be patient and considerate
- Communicate with the person
- Place yourself at eye level
- Identify yourself and others



# Do's and Don'ts

**Do Use: People with disabilities.**

**Don't Use: The handicapped or disabled.**

**Do Use: He/she has a learning disability.**

**Don't Use: He/she is learning disabled.**

**Do Use: He/She uses a wheelchair.**

**Don't Use: He/She is wheelchair bound.**

**Do Use: He/She has a need for.....**

**Don't Use: He/She has a problem with.....**

# The End

## Questions?



**We are the LEADERS  
in disability-related solutions.**